NOTIFICATION.

No. 4403—L.A. Bangalore, dated 8—10th October 1951.

As required by Rule 69 of the Rules of Procedure and Conduct of business in the Mysore Legislative Assembly, the following report of the Select Committee on the Mysore Irrigation (Amendment) Bill, 1951, with the amended Bill is hereby published.

G. S. VENKATARAMANA IYER,
Secretary,
Mysore Legislature.

REPORT OF THE SELECT COMMITTEE ON THE MYSORE IRRIGATION (AMENDMENT) BILL, 1951.

(Presented on 8th October 1951.)

We, the Members of the Select Committee to which the Mysore Irrigation (Amendment) Bill, 1951, was referred have considered the several clauses of the Bill in detail and have the honour to submit the following report :

Clause 2.—As the expression 'prescribed' has been used in this Bill, we consider it desirable to have a definition and we recommend that for item (*c*) of clause 2, the following item may be substituted :

"(*c*) after clause (10), the following clauses shall be added, namely :—

(11) 'Government' means the State Government.

(12) 'prescribed' means prescribed by rules made by the Government under this Act."

Clause 10.—We consider it desirable that before the authorised Officer specifies the kind of crop that should be grown on any land under an irrigation work, he should consult not only the Deputy Commissioner or Canal Officer but also the Irrigation Panchayet or Irrigation Board, if any, having jurisdiction over the area in question. We accordingly recommend that in the proposed section 16-A after the words "the Canal Officer" the words "and the Irrigation Panchayet or Irrigation Board, if any, having jurisdiction over the irrigable area in which the land is situated" may be added.

Clause 11.—The proposed section 17-A casts an obligation on owners and occupiers of land receiving water from irrigation works to carry out the directions of the Irrigation Officer relating to the maintenance of the

irrigation work and the use of the water supplied therefrom. We are of the view that it would ensure more efficient maintenance of irrigation works and quicker repairs of such works, if the Government take up the work of repairs and maintenance themselves and recover the cost thereof from the owners and occupants of the lands benefited from the supply of water from such irrigation work. We accordingly recommend the omission of the proposed section 17-A and the insertion of a separate Chapter by including a new clause in the Bill before the existing clause 16 (renumbered 18) as follows :—

"17. After Chapter VI of the said Act, the following Chapter shall be inserted, namely :—

CHAPTER VI-A

Of the Maintenance of Minor Irrigation Works.

30-A. In this Chapter, (i) "minor irrigation works" means such irrigation works as the Government may, from time to time, by notification in the *Mysore Gazette*, declare to be minor irrigation works for the purposes of this Chapter; and (ii) "Order" means an order published in the *Mysore Gazette*.

30-B. (1) If the Government considers that in the interests of the proper irrigation of lands in any area, the work of maintenance in a fit state of repair of minor irrigation works in such area should be undertaken by the Government and the cost of such maintenance or any part thereof recovered from the holders of lands in the area benefited by such minor irrigation works (hereinafter in this Chapter called the benefited area), the Government shall make a declaration to that effect.

(2) The declaration under sub-section (1) shall be published in the *Mysore Gazette* in English and Kannada and in such other manner as may be prescribed.

30-C. (1) On the making of a declaration under sub-section (1) of section 30-B, the Government shall maintain in a fit state of repair such minor irrigation works and every holder of lands in the benefited area, shall pay to the Government an acreage contribution at such rates, not exceeding three rupees per acre per annum, as the Government may, by Order, determine.

(2) Every Order made under sub-section (1) shall be laid before the Mysore Legislative Assembly as soon as may be after it is made, and shall be subject to such

modifications as the said Legislative Assembly may make on a motion made within seven days from the date on which the Order is so laid.

30-D. When the Government undertakes the maintenance of any irrigation work under sub-section (1) of section 30-C the Deputy Commissioner of the District shall, subject to such rules as may be prescribed in this behalf, levy from the holders of lands within the benefited area in addition to the assessment fixed under the provisions of section 112 of the Mysore Land Revenue Code, 1888, acreage contribution per annum at the rates determined under section 30-C. Such contribution shall be recoverable as a revenue demand."

Clause 12.—We consider it unnecessary to provide for the appointment by the Government of an Officer to hold an enquiry under the proposed section 25. But we are of the view that the Sub-Divisional Officer in the Public Works Department having jurisdiction should be the officer to hold the enquiry. We accordingly recommend that the proposed section 25 may be recast as follows:

"25. Whenever the construction, restoration or improvement of any irrigation work in any local area is proposed to be undertaken by the Government the Sub-Divisional Officer in the Public Works Department having jurisdiction over such area, shall hold an enquiry in the manner hereinafter provided, and shall prepare a scheme indicating the area irrigable by such irrigation work and specifying the rates of contribution and water rates which may be levied in respect of the lands in such area.

Explanation.—Improvement in this Chapter means only such improvement of an irrigation work as will materially enhance the supply of water available therein for irrigation."

Clause 13.—In view of the change recommended in clause 12, we recommend that in section 26 for the words "The Officer appointed to hold an enquiry" the words "The Sub-Divisional Officer holding enquiry' may be substituted. For the words "construction or' improvement" the words "construction, restoration or improvement" may also be substituted.

Clause 14.—For the reason aforesaid we recommend that for the words "the Officer" the words "the Sub-Divisional Officer" may be substituted.

Clause 15.—We are of the view that sub-section (4) of section 29 of the Act is unnecessary and may be deleted. We also consider that in view of the changes made in sections 26 to 28, the provisions will apply to the restoration of minor tanks, and hence the Minor Tank Restoration Act, 1916, may be repealed; and in the case of restoration of such minor tanks the maximum contribution may be fixed at Rs. 200 per acre. We accordingly recommend that for items (2) and (3) of clause 15, the following items may be substituted:

"(2) For sub-section (2), the following sub-section shall be substituted, namely:—

'(2) The contribution referred to in clause (*b*) of sub-section (1) shall not in the case of restoration or improvement of any minor tank exceed two hundred rupees per acre in respect of the lands in the benefited area;

Explanation.—'Minor tank' in this sub-section means a minor tank as defined in section 2 of the Tank Panchayet Act, 1911.

(3) in sub-section (3) for the brackets and letter '(*e*)' the brackets and letter "(*c*)" shall be substituted;

(4) sub-section (4) shall be omitted."

New Clause.—We consider that it is necessary to insert the words "of the District" after the words "Deputy Commissioner" in section 30, as the contribution and water rate will have to be recovered by the Deputy Commissioner of the District. We accordingly recommend the inclusion of the following clause after clause 15 and the renumbering of the existing clause 16 as clause 18:

"16. In section 30 of the said Act, after the words "Deputy Commissioner" in the two places where they occur, the words "of the district" shall be inserted."

Clause 19. (*Original clause 17*).—We are of the opinion that appeals from order of the Deputy Commissioner should lie to the Chief Engineer and we accordingly recommend

that clause 17 (renumbered as 19) may be recast as follows:—

"In section 45 of the said Act for the words "to the Revenue Commissioner" the words "to the Chie Engineer" shall be substituted."

Clause 20. (*Original clause 18*).—1. We have considered the provisions of the proposed section 45-A in some detail. We have come to the conclusion that liability for unauthorised use of water due to acts of persons who cannot be identified should only be cast on persons whose land has benefited from such use and not on others specified in this section. We accordingly recommend that section 45-A may be recast as follows:

"45-A. If water supplied through a water course be used in an unauthorised manner and if the person by whose act or neglect such use has occurred, cannot be identified, the person or all the persons whose lands have derived benefit therefrom shall be liable or jointly liable, as the case may be, for such charges as the Government may prescribe for such use".

2. 45-B. We are not in favour of the proposed section 45-B. We consider it unreasonable that for the act of a person who cannot be identified, other persons who have not been benefited from such act should be made liable for the waste. We accordingly recommend that this section may be omitted and subsequent sections suitably renumbered.

3. 45-C, 45-D *and* 45-E.—Consequential upon our recommendation to omit the proposed section 45-B, we recommend that in the proposed sections 45-C, 45-D and 45-E the words and figure "or section 45-B" may be omitted and we also recommend that in section 45-D the words "or waste" in the two places where they occur may also be omitted.

Clause 21. (*Original clause 19*).—Since we have recommended that the proposed section 17-A may be completely recast and no direction relating to maintenance or repair of irrigation works will be given by an Irrigation Officer to owners of lands, the words "or any order made under section 17-A occurring in the proposed clause (*X-a*)" may be omitted.

Clause 23. (*Original clause 21*).—We consider that in view of the amendments proposed to section 46 providing for a deterrent punishment of imprisonment and fine for offences under clauses (ii) and (xii) of section 46, it is not at present necessary to insert the proposed section 52-A, regarding the special rules of evidence. We accordingly recommend the deletion of the proposed section 52-A.

New Clause.—In view of the insertion of the new Chapter VI-A, a consequential amendment in section 55 of the Act is necessary. It is also necessary to add a clause for repealing the Minor Tank Restoration Act, 1916. We accordingly recommend the addition of the following new clauses :

"24. In section 55 of the said Act, after the word and figure "Chapter VI" the word, figure and letter "Chapter VI-A" shall be inserted."

"25. The Minor Tank Restoration Act, 1916, is hereby repealed."

The Bill was published in the *Mysore Gazette* Extraordinary dated 14th March 1951. In our opinion, the Bill has not been so altered as to require circulation.

T. MARIAPPA (*Chairman*).
M. L. NANJARAJA URS.
H. SIDDAVEERAPPA.
S. KARIAPPA.
D. GANGYA NAIK.
A. SUBBARAYA SETTY.
D. GOVINDA DAS.
T. C. HONNAPPA.
C. R. BASAPPA.
M. C. VENKATESHAN.

Sriyuts K. V. Shankara Gowda and T. Madiah Gowda were absent at the meetings of the Select Committee. Sri. N. Huchmasthy Gowda has not yet signed the report.

[AS AMENDED BY THE SELECT COMMITTEE.]

(Words underlined or sidelined indicate the amendments suggested by the Committee ; asterisks indicate omissions.)

THE MYSORE IRRIGATION (AMENDMENT) BILL, 1951.

A Bill further to amend the Mysore Irrigation Act, 1932.

WHEREAS it is expedient further to amend the Mysore Irrigation Act, 1932, (Mysore Act I of 1932), for the purposes hereinafter appearing ; Preamble.

It is hereby enacted as follows :—

1. (1) This Act may be called the Mysore Irrigation (Amendment) Act, 1951. Short title and commencement.

(2) It shall come into force at once.

2. In section 3 of the Mysore Irrigation Act, 1932, (hereinafter referred to as the said Act),— Amendment of section 3 of Mysore Act I of 1932.

(*a*) after clause (4), the following clause shall be inserted, namely :—

"(4-A) 'Chief Engineer' means the Chief Engineer to the Government in charge of the Public Works Department ;"

(*b*) after clause (5), the following clause shall be inserted, namely :—

"(5-A) 'Canal Officer' means an Officer appointed by the Government to exercise all or any of the powers of a Canal Officer in respect of any canal area notified in this behalf by the Government in the *Mysore Gazette* ;"

(*c*) after clause (10), the following clauses shall be added, namely :—

"(11) 'Government' means the State Government.

(12) 'prescribed' means prescribed by rules made by the Government under this Act."

Amendment of section 4 of Mysore Act I of 1932.

3. In section 4 of the said Act, after the words "Deputy Commissioner", a comma and the words "the Canal Officer" shall be inserted.

Amendment of sections 5 and 6 of Mysore Act I of 1932.

4. In sections 5 and 6 of the said Act, for the words "Irrigation Officer", the words "Canal Officer or Irrigation Officer" shall be substituted.

Amendment of section 7 of Mysore Act I of 1932.

5. In section 7 of the said Act, for the words "an Irrigation Officer", the words "a Canal Officer or an Irrigation Officer" shall be substituted.

Omission of the words "of the District" in sections 8, 12, 13 and 16 of Mysore Act I of 1932.

6. The words "of the District" occurring in sections 8, 12, 13 and 16 of the said Act, shall be omitted.

Amendment of section 8 of Mysore Act I of 1932.

7. In sub-section (1) of section 8 of the said Act, for the words "Revenue Commissioner", the words "Chief Engineer" shall be substituted.

Amendment of section 13 of Mysore Act I of 1932.

8. In section 13 of the said Act—

(1) in sub-section (1), for the words "or any other officer specially empowered by the Government in this behalf", the words "or the Canal Officer" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) From the order of a Deputy Commissioner or a Canal Officer under sub-section (1), an appeal shall lie to the Chief Engineer within ninety days from the date of such order."

Amendment of section 16 of Mysore Act I of 1932.

9. In sub-section (1) of section 16 of the said Act for the words "An Irrigation Officer", the words, figure and letter "Subject to the provisions of section 16-A, an Irrigation Officer", shall be substituted; and for the

words "wet crops", the words "paddy, sugarcane or any perennial crop or intermittent irrigated dry crops" shall be substituted.

10. After section 16 of the said Act, the following section shall be inserted, namely :— Insertion of a new section 16-A in Mysore Act I of 1932.

"16-A. (1) An officer, not below the rank of an Executive Engineer authorised by the Government in this behalf, may, in consultation with the Deputy Commissioner or the Canal Officer and the Irrigation Panchayet or Irrigation Board, if any, having jurisdiction over the irrigable area in which the land is situated specify, by notification published in such manner as may be prescribed, the kind of crop that shall be grown on any land under any irrigation work, and the period of sowing and planting such crop. Power to prescribe the kind of crop to be grown under an irrigable area and the period of sowing such crop.

(2) On the publication of a notification under sub-section (1), no person shall grow or allow any crop other than the crop specified in such notification to be grown on any land under such irrigation work and no person shall sow or plant or allow the sowing or planting of crop at any time other than during the period specified in such notification."

11. After section 17 of the said Act, the following section shall be inserted, namely :— Insertion of new section 17-A in Mysore Act I of 1932.

17-A. * * *

"17-A. If it is necessary to acquire any land for the purposes of this Chapter, an officer not below the rank of an Assistant Commissioner, specially empowered by the Government in this behalf, may proceed to acquire the same under the provisions of the Mysore Land Acquisition Act, 1894." Acquisition of land to ensure supply of water.

Substitution of a new section for section 25 of Mysore Act I of 1932.

12. For section 25 of the said Act, the following section shall be substituted, namely :—

Preliminary enquiry to be held when the levy of acreage contribution or water rate or both is necessary for undertaking construction, restoration or improvement of an irrigation work.

"25. Whenever the construction, restoration or improvement of any irrigation work in any local area is proposed to be undertaken by the Government, the Sub-Divisional Officer in the Public Works Department having jurisdiction over such area, shall hold an enquiry in the manner hereinafter provided, and shall prepare a scheme indicating the area irrigable by such irrigation work and specifying the rates of contribution and water rates which may be levied in respect of the lands in such area.

Explanation.—Improvement in this Chapter means only such improvement of an irrigation work as will materially enhance the supply of water available therein for irrigation."

Amendment of section 26 of Mysore Act I of 1932.

13. In section 26 of the said Act, for the words "The Deputy Commissioner or other officer appointed to make an enquiry", the words "The Sub-Divisional Officer holding enquiry under section 25" shall be substituted.

Substitution of new sections for sections 27 and 28 of Mysore Act I of 1932.

14. For sections 27 and 28 of the said Act, the following sections shall be substituted, namely :—

Report of the enquiring officer.

"27. On the date fixed for holding an enquiry under section 26 or on such other date to which the enquiry may be adjourned, the Sub-Divisional Officer shall hold a formal enquiry in the manner provided in the Mysore Land Revenue Code, 1888, and after considering any objections or suggestions duly submitted and the evidence, if any, produced and taking such further evidence as he thinks

necessary, shall embody his proceedings in a report and submit it to the Government, together with a statement of objections and suggestions presented to him and any remarks he may desire to make in respect of them.

Government may abandon scheme or proceed with it with modifications.

28. On receipt of the report under section 27, the Government may, after such further enquiry, if any, as they may make, either abandon the scheme or proceed with the scheme in the original form or with such modifications as they may consider necessary.

Government may exclude operation of sections 25, 26 and 27.

28-A. The Government may, by notification in the *Mysore Gazette*, declare that the provisions of sections 25, 26 and 27 shall not apply to the construction or restoration or improvement of any irrigation work or any class of irrigation works and on the publication of such declaration, a scheme prepared by such officer as the Government may appoint, shall be dealt with under section 28, as if it were a scheme submitted under section 27."

Amendment of section 29 of Mysore Act I of 1932.

15. In section 29 of the said Act,—

(1) in sub-section (1), clauses (*a*), (*b*) and (*f*) shall be omitted and clauses (*c*), (*d*) and (*e*) shall be re-lettered as clauses (*a*), (*b*) and (*c*);

(2) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The contribution referred to in clause (*b*) of sub-section (1) shall not in the case of restoration or improvement of any minor tank exceed two hundred rupees per acre in respect of the lands in the benefited area;

Explanation.—'Minor tank' in this sub-section means a minor tank as defined in section 2 of the Tank Panchayat Act, 1911."

(3) in sub-section (3) for the brackets and letter "(*e*)", the brackets and letter "(*c*)" shall be substituted;

(4) sub-section (4) shall be omitted.

16. In section 30 of the said Act, after the words "Deputy Commissioner" in the two places where they occur, the words "of the district" shall be inserted.

17. After Chapter VI of the said Act, the following Chapter shall be inserted, namely :—

"CHAPTER VI-A.

OF THE MAINTENANCE OF MINOR IRRIGATION WORKS.

Interpretation of 'minor irrigation works' and 'order'.

30-A. In this Chapter, (*i*) "minor irrigation works" means such irrigation works as the Government may, from time to time, by notification in the *Mysore Gazette*, declare to be minor irrigation works for the purposes of this Chapter; and (*ii*) "order" means an order published in the *Mysore Gazette*.

Declaration in respect of maintenance of minor irrigation works by Government.

30-B. (1) If the Government considers that in the interests of the proper irrigation of lands in any area, the work of maintenance in a fit state of repair of minor irrigation works in such area should be undertaken by the Government and the cost of such maintenance or any part thereof recovered from the holders of lands in the area benefited by such minor irrigation works (hereinafter in this Chapter called the benefited area), the Government shall make a declaration to that effect.

(2) The declaration under sub-section (1) shall be published in the *Mysore Gazette* in English and Kannada and in such other manner as may be prescribed.

Consequences of the making of the declaration under section 30-B.

30-C. (1) On the making of a declaration under sub-section (1) of section 30-B, the Government shall maintain in a fit state of repair such minor irrigation works and every holder of lands in the benefited area, shall pay to the Government an acreage contribution at such rates, not exceeding three rupees per acre per annum, as the Government may, by order, determine.

(2) Every order made under sub-section (1) shall be laid before the Mysore Legislative Assembly as soon as may be after it is made, and shall be subject to such modifications as the said Lagislative Assembly may make on a motion made within seven days from the date on which the order is so laid.

Levy of contribution on lands within the benefited area.

30-D. When the Government undertakes the maintenance of any irrrigation work under sub-section (1) of section 30-C the Deputy Commissioner of the District shall, subject to such rules as may be prescribed in this behalf, levy from the holders of lands within the benefited area in addition to the assessment fixed under the

provisions of section 112 of the Mysore Land Revenue Code, 1888, acreage contribution per annum at the rates determined under section 30-C. Such contribution shall be recoverable as a revenue demand."

18. In section 31 of the said Act,— Amendment of section 31 of Mysore Act I of 1932.

(*a*) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1-A) In calling upon the able-bodied male persons to assist in the execution of any work by their labour under sub-section (1), no discrimination shall be made on grounds only of religion, race, caste or class or any of them."

(*b*) in sub-section (2), after the words "Deputy Commissioner", the words "and the Canal Officer" shall be added.

19. In section 45 of the said Act, for the words "to the Revenue Commissioner" the words "to the Chief Engineer" shall be substituted. Amendment of section 45 of Mysore Act I of 1932.

20. In Chapter X of the said Act, before section 46, the following sections shall be inserted, namely :— Insertion of new sections 45-A, 45-B, 45-C, 45-D and 45-E before section 46 of Mysore Act I of 1932.

"45-A. If water supplied through a water course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred, cannot be identified, the person or all the persons whose lands have derived benefit therefrom shall be liable, or jointly liable, as the case may be, for such charges as the Government may prescribe for such use" Liability when person using water unauthorisedly cannot be identified.

45-B. * * * *

Decision of questions under section 45-A.

45-B. (1) All questions arising under section 45-A * * shall be decided by orders, in writing, by the Irrigation Officer.

(2) From any order of the Irrigation Officer under sub-section (1), an appeal shall lie, within thirty days from the date of service of the said order on the person concerned, to the Deputy Commissioner, whose decision thereon shall be final.

Charges for unauthorised use or waste of water recoverable in addition to penalties.

45-C. All charges for the unauthorised use * * of water under section 45-A * * may be recovered as water rates, in addition to any penalties incurred on account of such use. *

Interpretation of "water-course."

45-D. For the purposes of sections 45-A, 45-B, and 45-C * * 'water-course' includes any channel or pipe supplied with water from an irrigation work and which is maintained at the cost of the Government."

Amendment of section 46 of Mysore Act I of 1932.

21. In section 46 of the said Act,—

(*a*) after clause (*x*), the following clause shall be inserted, namely :—

"(*x-a*). contravenes the provisions of sub-section (2) of section 16-A "; * * *

(*b*) in the last paragraph, (i) after the figure and brackets "(*x*)", a comma and the figure, letter and brackets "(*x-a*)" shall be inserted ;

(ii) for the words "with fine which may extend to one hundred rupees", the words "with imprisonment for a term which may extend to two months or with fine which may extend to five hundred rupees or with both" shall be substituted ;

(iii) for the words "with fine which may extend to fifty rupees" the words "with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both" shall be substituted.

22. In section 52 of the said Act,— Amendment of section 52 of Mysore Act I of 1932.

(*a*) after the words "Revenue Commissioner" wherever they occur, the words " or Chief Engineer" shall be inserted; and

(*b*) after the words "Deputy Commissioner", the words " or a Canal Officer " shall be inserted.

23. After section 52 of the said Act, the following section shall be inserted, namely:— Insertion of new section 52-A in Mysore Act I of 1932.

52-A. * * *

52-A. Notwithstanding anything contained in the Code of Criminal Procedure, 1904 (II of 1904), all offences punishable under this Act shall be cognizable.', Offences under Act to be cognizable.

24. In section 55 of the said Act, after the word and figure " Chapter VI" the word, figure and letter " Chapter VI-A " shall be inserted.

25. The Minor Tank Restoration Act, 1916, is hereby repealed.

G. S. VENKATARAMANA IYER,

Secretary,
Mysore Legislature.